

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	01 C 8988	DATE	12/28/2001
CASE TITLE	Washington Mutual Bank vs. Bobby G. Morrison		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Order. The Answer is stricken in its entirety so that a self-contained Amended Answer may be filed. Leave is granted to do so on or before January 11, 2002.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court.		number of notices	Document Number 5
<input type="checkbox"/> No notices required.		JAN 02 2002 date docketed	
<input checked="" type="checkbox"/> Notices mailed by judge's staff.		cm docketing deputy initials	
<input type="checkbox"/> Notified counsel by telephone.		12/28/2001 date mailed notice	
<input type="checkbox"/> Docketing to mail notices.		SN	
<input type="checkbox"/> Mail AO 450 form.		mailing deputy initials	
<input type="checkbox"/> Copy to judge/magistrate judge.			
SN	courtroom deputy's initials	Date/time received in central Clerk's Office	

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOCKETED
JAN 02 2002

WASHINGTON MUTUAL BANK, etc.,)	
)	
Plaintiff,)	
)	
v.)	No. 01 C 8988
)	
BOBBY G. MORRISON,)	
)	
Defendant.)	

MEMORANDUM ORDER

As a claimed junior lienholder and hence an additional defendant in this mortgage foreclosure action, the United States has just filed its Answer to the Complaint brought by first mortgagee Washington Mutual Bank, as successor by merger to Bank United, FSB. This memorandum order is issued sua sponte to require government counsel to cure that pleading's noncompliance with the requirements of the Federal Rules of Civil Procedure ("Rules").

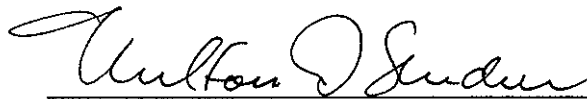
Rule 8(b)'s second sentence prescribes an express form of disclaimer necessary to entitle a defendant to the benefit of a deemed denial--see App. ¶1 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 279 (N.D. Ill. 2001). Because Answer ¶¶1 and 3 depart from that formulation in a material way, they are stricken with leave to replead.

While government counsel returns to the drawing board, it would be well for him to reframe the prayer for relief that seeks adjudication of the United States' claimed lien. Even though

mortgage foreclosure practice tends to follow the more traditional forms employed in the state courts that handle the bulk of such practice, what the United States is really advancing is a cross-claim against the mortgagors under Rule 13(g).

Finally, the Answer as filed fails to conform to the dictate of this District Court's LR 10.1. Because that may perhaps be less serious in the simple type of action that is exemplified by a mortgage foreclosure proceeding, this Court will not insist on such compliance in the Amended Answer--but it should nonetheless be said that rules are rules and ought to be treated as such.

In any event, the Answer is stricken in its entirety so that a self-contained Amended Answer may be filed. Leave is granted to do so on or before January 11, 2002.

A handwritten signature in cursive script, appearing to read "Milton I. Shadur", written in dark ink.

Milton I. Shadur
Senior United States District Judge

Date: December 28, 2001